

Amendments to the Drawings:

The attached sheets of drawings include changes to **FIGURE 2**, which replaces the **FIGURE 2** filed on March 7, 2007. Also attached are Annotated drawings, one for amended **FIGURE 2** and two to replace the Figures Showing Changes Made submitted on March 7, 2007 for **FIGUREs 3 and 4**.

Attachment: Replacement Sheet for **FIGURE 2**

Annotated Sheets Showing Changes for **FIGURES 2-4**

REMARKS

Claims 9, 19 and 26 have been canceled. Claims 1-8, 10-18, 20-25 and 27 are pending in the above-identified application. Claims 1, 7 and 19 are objected to because of informalities. Claims 14-17 are rejected under 35 §112, ¶2 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Claims 1, 3, 4, 7, 8, 10, 12, 13, 15-18 and 20 are rejected under §102(b) as being anticipated by Chandra et al. (“An Online Optimization-based Technique for Dynamic Resource Allocation in GPS Servers,” Technical Report UM-CS-2002-030, University of Massachusetts, July 2002; hereinafter referred to as “Chandra”). Claims 2, 9, 11, 14, 19, 21-27 are rejected under 35 U.S.C. §103(a) as being unpatentable over Chandra in view of Nagarajan et al. (“Modelling and Simulation of an Alarm Based Network Management System for Effective SLA Monitoring and Management,” SCI 2003, 7th World Multiconference on Systemics, Cybernetics and Informatics Proceedings, July 27-30, 2003; hereinafter referred to as “Nagarajan”). Claim 5 is rejected under 35 U.S.C. §103(a) as being unpatentable over Chandra in view of Chan (U.S. Patent No. 6,466,898). Claim 6 is rejected under 35 U.S.C. §103(a) as being unpatentable over Chandra in view of Sheets et al. (U.S. Patent No. 6,816,905; hereinafter referred to as “Sheets”).

Applicants submit that these amendments and remarks overcome all of the Examiner’s outstanding rejections and objections and bring the present Application into condition for allowance. Entry of this amendment and a notice of allowance of all claims are therefore respectfully solicited.

Objections to the Drawings

Figure 2 is amended to remove one element that was not described in the Specification. In addition, Annotated Drawings Showing Changes Made have been provided for **FIGUREs 2-4**, for **FIGURE 2**, because it has been changed and, for **FIGUREs 3 and 4**, because the corresponding figures submitted March 7, 2007 were labeled incorrectly. Applicants believe that these modifications resolve all the current Objections to the Drawings and respectfully request both entry of the Amendments and approval of the Drawings.

Objections to the Claims

Claims 1, 13 and 21 are amended to clarify that Applicants' disclosed technology produces a new service level agreement. Applicants believe this resolves one of the objections to claim 1. Claims 1, 7 and 19 have been amended to resolve the remaining objections to those claims. Applicants believe that these amendments resolve all the current Objections to the Claims and respectfully request entry of the Amendments and withdrawal of the Objections.

Rejections Based Upon §112

Claims 14 is amended to clarify that the "result" referred to is one "produced by the simulated processing." Claims 15-17 are amended to clarify that the described limitations correspond to the "resource profile" rather than the "workload profile." Applicants believe that these modifications resolve the rejections based upon §112 and respectfully request entry of the Amendments and withdrawal of the §112 rejections.

Rejections Based on §102(b)

Claims 1, 3, 4, 7, 8, 10, 12, 13, 15-18 and 20 are rejected under §102(b) as being anticipated by Chandra et al. (“An Online Optimization-based Technique for Dynamic Resource Allocation in GPS Servers,” Technical Report UM-CS-2002-030, University of Massachusetts, July 2002; hereinafter referred to as “Chandra”). Since limitations associated with claims 9, 19 and 26 have been incorporated into independent claims 1, 13 and 21, which have been rejected under 35 U.S.C. §103(a), Applicants believe the §102(b) rejections are moot and, therefore, respectfully request withdrawal.

Rejections Based on §103(a)

Claims 2, 9, 11, 14, 19, 21-27 are rejected under 35 U.S.C. §103(a) as being unpatentable over Chandra in view of Nagarajan et al. (“Modelling and Simulation of an Alarm Based Network Management System for Effective SLA Monitoring and Management,” SCI 2003, 7th World Multiconference on Systemics, Cybernetics and Informatics Proceedings, July 27-30, 2003; hereinafter referred to as “Nagarajan”). Claim 5 is rejected under 35 U.S.C. §103(a) as being unpatentable over Chandra in view of Chan (U.S. Patent No. 6,466,898). Claim 6 is rejected under 35 U.S.C. §103(a) as being unpatentable over Chandra in view of Sheets et al. (U.S. Patent No. 6,816,905; hereinafter referred to as “Sheets”). Claim 13 has been amended to focus on one aspect Applicants do not believe is supported by the cited art, specifically the generation of a new SLA based upon actual, rather than hypothetical work profile data.

Basically, Chandra is directed to “online workload predictions and optimization-based techniques to dynamically allocate resources to competing web applications running on shared servers.” (p. 1, Abstract, lines 8-11; *emphasis added*). In other words, Chandra addresses resource allocation in a shared computing environment. In contrast, Applicants’ claimed subject matter is directed at modifying a service level agreement rather than the actual allocation of resources while in the process of providing those resources. While Chandra addresses techniques for the reallocation of resources among competing users, perhaps for the purpose of providing resources to satisfy a particular agreement, there is no teaching or suggestion directed to modifying an agreement such as a SLA.

Like Chandra, Nagarajan not directed to modifying an existing service level agreement to create a new SLA. One cited portion of Nagarajan relied upon by the Office Action, states:

Simulation studies will not only help to identify the above mentioned facts but will also help ISP beforehand to check if network meets the desired services to be offered, what metrics need to be monitored during SLA monitoring. This helps in effective SLA creation and also effective SLA monitoring.

(¶1, lines 10-17). This section is directed to the initial creation and a determination of monitoring needs rather than the modification of an existing SLA to create a new SLA. A second cited portion makes this point clearly, stating:

We suggest simulations should be used in the first place to do different “what-if” analysis based on which service levels have to be established ... and than SLA agreement should be created for customers.

(p. 2, ¶ 1, lines 3-6). In other words, Nagarajan is directed to the initial creation of a SLA rather than the modification of an existing one.

In addition, Nagarajan is directed to “what-if” analysis while Applicants’ claimed subject matter also employs actual work flow to generate a new SLA. The Specification states, “In addition to workload profile data **213 based upon actual usage...**” (p. 4, ¶43, lines 102). Applicants contend that neither Nagarajan nor any of the other cited art provides that which Chandra lacks

To establish *prima facie* obviousness of a claimed invention under §103(a), all the claim limitations must be taught or suggested by the prior art. (M.P.E.P., §2143.03, citing *in re Royka*, 490 F.2d 981; 180 U.S.P.Q. 580 (CCPA 1974)). In addition, “**All words in a claim must be considered** in judging the patentability of that claim against prior art.” (*Id.*, citing *In re Wilson*, 424 F.2d 1382, 1385; 165 U.S.P.Q. 494, 496 (CCPA 1970); *emphasis added*). Applicants believe that the cited art fails to meet this standard. For the reasons above, independent claims 1, 13 and 21 are allowable over the cited art. In addition, dependent claims 2-8, 10-12, 14-18, 20, 22-25 and 27 are allowable because they each depend upon one of the allowable independent claims.

CONCLUSION

In light of the amendments and remarks made herein, Applicants submit that all pending claims are allowable and earnestly solicits notice thereof. A Request for a One-Month Extension of Time is being filed and paid for electronically in conjunction with this Response so that Applicants have until January 17, 2008 to respond. A Request for Continued Examination is also being filed and paid for electronically in conjunction with the Amendment. It is believed that no other fees are due with the filing of this Amendment/Response. However, should any other fees be due, the Commissioner is hereby authorized to charge such fees to the deposit account of IBM Corporation, Deposit Account No. 09-0447.

Respectfully submitted,



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Attachment: Appendix A

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